

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

FRANCISCO PENA, #89166-079,	)	
	)	
Petitioner,	)	
	)	
v.	)	3:08-CV-0338-K
	)	
DAVID BERKEBILE,	)	
	)	
Respondent.	)	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

United States Magistrate Judge William F. Sanderson, Jr., made findings, conclusions and a recommendation in this case. No objections were filed. The District Court reviewed the proposed findings, conclusions and recommendation for plain error. Finding none, the Court accepts the Findings, Conclusions and Recommendation of the United States Magistrate Judge.

Further, Petitioner's Motion to Reconsider Based on Discrimination, filed on September 10, 2008, is **DENIED**. Relying on the Second Chance Act, the motion seeks to raise a new claim. Specifically he seeks to challenge the reduction of his placement in a Residential Reentry Center, or halfway house, from 6 months to only 3 months on the basis of discrimination. Petitioner fails to show that he has exhausted his

administrative remedies with respect to his new claim since the passage of the Second Chance Act.

SO ORDERED

Signed this 25<sup>th</sup> day of September, 2008.

A handwritten signature in black ink, reading "Ed Kinkeade". The signature is written in a cursive style with a horizontal line underneath it.

ED KINKEADE  
UNITED STATES DISTRICT JUDGE